TRANSPORTATION AUTHORITY OF CALHOUN COUNTY
Michigan Freedom of Information Act Procedures and Guidelines

The Michigan Freedom of Information Act (FOIA), MCL 15.231-15.246, provides for public access to certain public records, permits the charging of prescribed fees and deposits, and provides remedies and penalties for non-compliance. A person has a right to inspect, copy, or receive copies of certain requested public records. Some public records are permitted or required not to be disclosed. The Authority is a public body that must comply with the FOIA. For the purposes of these Procedures and Guidelines, terms have the same meaning as defined in the FOIA. A complete copy of the FOIA is available on the Michigan Legislature's website at www.legislature.mi.gov.

These Procedures and Guidelines (which include a Public Summary and an Itemized Fee Form) are available on the Authority's website at ridecalhoun.org. This link or a physical copy of these Procedures and Guidelines will be included in each of the Authority's FOIA responses. Paper copies of these Procedures and Guidelines are available upon request by a visitor at 339 West Michigan Avenue, Battle Creek, MI 49037.

I. PUBLIC SUMMARY

A. How to Submit Written Requests

A written request to inspect, copy, or review a public record should be submitted to the Authority's FOIA Coordinator.

FOIA requests can be sent via U.S. Mail to:

Transportation Authority of Calhoun County
339 W. Michigan Ave
Battle Creek, MI 49037

- FOIA requests sent via email should be sent to: info@ridecalhoun.org
- FOIA requests sent via fax should be faxed to: 269-966-3652
- FOIA requests can be made via the Authority website at ridecalhoun.org

A request from a person, other than an individual who qualifies as indigent under section 4(2)(a) of MCL 15.234, must include the requesting person's complete name, address, and contact information, and, if the request is made by a person other than an individual, the complete name, address, and contact information of the person's agent who is an individual. An address must be written in compliance with United States Postal Service addressing standards. Contact information must include a valid telephone number or electronic mail address. Indigent individuals are not required to provide name, address, and contact information.

A request must describe the public record in sufficient detail to enable the Authority to find the requested record. A sample Request Form is appended to these Procedures and Guidelines as **Attachment A**.

A person may subscribe to future issuances of public records created, issued, or disseminated by the Authority *on a regular basis,* such as notices of Board meetings. A subscription is valid for up to 6 months and may be renewed by the subscriber.

In lieu of paper copies, the requestor may stipulate that the Authority provide nonexempt public records on non-paper physical media, electronically mailed, or otherwise electronically provided. The Authority is not required to produce nonexempt public records on non-paper physical media if the Authority lacks the technological capability necessary to provide the requested records on the particular non-paper physical media stipulated in the particular instance. The Authority is not required to use non-paper physical media *provided by the requestor* and, to safeguard the Authority's information technology infrastructure, shall not do so. Computer software is not a public record.

A person may request a certified copy of a public record.

B. Explanation of Written Responses

The Authority will respond to a written request under the FOIA within 5 business days (excluding weekends and legal holidays) after the Authority receives the written request, unless otherwise agreed to in writing by the requestor. The FOIA defines the date of receipt by the Authority differently depending upon how the request was delivered to the Authority (e.g., hand-delivery, regular mail, e-mail, facsimile).

The Authority will respond to a request by doing one of the following: (a) granting the request; (b) issuing a written notice denying the request; (c) granting the request in part and issuing a written notice denying the request in part; or (d) issuing a notice extending for not more than 10 business days the period during which the Authority will respond to the request. The Authority shall not issue more than 1 notice of extension for a particular request.

If a requestor asks for information that is available on the Authority's website, the Authority will notify the requestor in its response where the records may be found on its website. Paper copies of public records available on the Authority's website will be made available upon request, but a fee may be charged as explained in Section II and on the detailed fee itemization form.

The Authority will provide reasonable facilities for a requestor to inspect nonexempt public records. The facilities will be available during the Authority's normal business hours. The FOIA Coordinator will establish rules regulating the manner in which records may be inspected to protect the Authority's records from loss, alteration, mutilation, or destruction, or to prevent undue interference with the Authority's normal operations.

If a request is denied in whole or in part, the Authority will include in the written notice of denial an explanation of the basis for the denial and, if applicable, a certificate that the public record does not exist under the name given by the requestor or by another name reasonably known to the Authority. A sample Certificate of Non-Existence of Public Record is appended as **Attachment B**. If a public record or information is separated and exempt from disclosure (redacted), the Authority will describe generally the material exempted unless that description would reveal the contents of the exempt information and thus defeat the purpose of the exemption.

C. Deposit Requirements

Where the Authority estimates that the fee authorized under the FOIA and these FOIA Procedures and Guidelines for responding to a request will exceed Fifty Dollars ($50.00), the Authority may require a good-faith deposit from the requestor before providing the requested records. A good-faith deposit shall not exceed one-half (½) of the total estimated fee and shall include a detailed itemization of estimated fee amounts. The FOIA Coordinator will provide the requestor with a detailed itemization of the allowable fees estimated to be incurred by the Authority to process the request. The Authority will include with its request for good-faith deposit a best efforts estimate of the time frame within which the Authority will provide the requested public records. The timeframe estimate is not binding on the Authority but will be made in good faith and the Authority will strive to be reasonably accurate.

If a deposit that is required under subsection (8) or (11) of MCL 15.234 is not received by the Authority body within 45 days from receipt by the requesting person of the notice that a deposit is required, and if the requesting person has not filed an appeal of the deposit amount pursuant to section 10a, the request shall be considered "Abandoned" by the requesting person and the Authority is no longer required to fulfill the request. Notice of a deposit requirement is considered received 3 days after it is sent, regardless of the means of transmission. Notice of a deposit requirement under subsection (8) or (11) must include notice of the date by which the deposit must be received, which date is 48 days after the date the notice is sent.

If a requestor previously requested public records from the Authority, and if the Authority made the requested public records available on a timely basis but was not paid in full the total estimated fee for that previous request, the Authority may, to the extent permitted by the FOIA, require a deposit of up to 100% of the estimated fee for the subsequent request(s).

D. Fee Calculations

The FOIA permits the Authority to charge six fee components: (a) labor costs of searching for, locating, and examining public records; (b) labor costs of separating or deleting (redacting) exempt information from non-exempt information; (c) labor costs to duplicate or publish requested public records; (d) actual costs of paper copies (not to exceed 10 cents per sheet for standard 8-1/2 by 11 or 8-1/2 by 14 sheets of paper); (e) actual costs of non-paper physical media (e.g., flash drive, CD) if requested and if the Authority has the technological capability to comply; and (f) actual costs of postal delivery. For more detailed information about the Authority's fee calculations, including fee reductions for untimely responses, see Section II. D of the Procedures and Guidelines and **Attachment C,** Detailed Itemization of Fee Amounts Form. The FOIA Coordinator will require that payment be made in full for the allowable fees before the requested records are made available.

1. **Fee Waivers.** A search for a public record may be conducted or copies of public records may be furnished without charge or at a reduced charge if the Authority determines that a waiver or reduction of the fee is in the public interest because searching for or furnishing copies of the public records can be considered as primarily benefiting the general public.

2. **Discounts**. Under the following circumstances, a public record search shall be made by the Authority and a copy of a non-exempt public record shall be furnished without charge for the first $20.00 of the fee:

    a. If an individual who is entitled to information under the FOIA:

        - submits an affidavit stating that the individual is receiving specific public assistance or is unable to pay the fee because of indigence and stating that the individual is not making the request in conjunction with outside parties in exchange for payment or other remuneration; and

        - that individual has not previously received discounted copies of public records from the Authority twice during the same calendar year.

    b. If a nonprofit corporation formally designated by the State of Michigan to carry out activities under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000, Public Law 106-402, and the Protection and Advocacy for Individuals with Mental Illness Act, Public Law 99-319, or their successors, submits a request that meets all of the following requirements:

        - Is made directly on behalf of the organization or its clients;

        - Is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the Mental Health Code, 1974 PA 258, MCL 330.1931; and

        - Is accompanied by documentation of its designation by the state, if requested by the Authority.

E. Avenues for Challenge and Appeal

1. **Challenge to Record Denial.** If the Authority fails to respond to a FOIA request or makes a final determination to deny all or a portion of a request, the requesting person may submit an appeal to the Authority Board or may commence an action in the circuit court for the county in which the public record or the Authority's office is located. See Section II. E of these FOIA Procedures and Guidelines for a more detailed explanation of the procedures and timelines for appealing a record denial.

2. **Challenge to Fee.** If the Authority requires a fee that requestor believes exceeds the amount permitted under the FOIA or the Authority's publicly available procedures and guidelines, the requesting person may commence an action in the circuit court for the county in which the public record or the Authority's office is located. See Section II. E of these FOIA Procedures and Guidelines for a more detailed explanation of the procedures and timelines for a fee appeal.

II. PROCEDURES & GUIDELINES A. Requests

1. All "persons," except those persons incarcerated in state or local correctional facilities, are entitled to submit a FOIA request to the Authority. A "person" is defined for purposes of the FOIA to mean "an individual, corporation, limited liability company,

partnership, firm, organization, association, governmental entity, or other legal entity."

2. A FOIA request is a *written* request to inspect, copy, or receive copies of a public record. A request must describe the public record in sufficient detail to enable the Authority to find the requested record. The Authority suggests that requestors use the sample Request Form appended as **Attachment A**.

3. FOIA requests must be in writing. If, however, a person makes an oral request for information that is available on the Authority's website, and if the employee to whom the request is directed knows that the information is available on the Authority's website, that employee must inform the requesting person that the information is available on the Authority's website.

4. The Authority's FOIA Coordinator is responsible to process requests to inspect, copy, or receive copies of public records. FOIA requests should be sent to the Authority's FOIA Coordinator.

   FOIA requests can be sent via U.S. Mail to:

   Transportation Authority of Calhoun County
   339 W. Michigan Avenue
   Battle Creek, MI 49037

   - FOIA requests sent via email should be sent to: info@ridecalhoun.org
   - FOIA requests sent via fax should be faxed to: 269-966-3652
   - FOIA requests can be made via the Authority website at ridecalhoun.org

   A request from a person, other than an individual who qualifies as indigent under section 4(2)(a) of MCL 15.234, must include the requesting person's complete name, address, and contact information, and, if the request is made by a person other than an individual, the complete name, address, and contact information of the person's agent who is an individual. An address must be written in compliance with United States Postal Service addressing standards. Contact information must include a valid telephone number or electronic mail address. Indigent individuals are not required to provide name, address, and contact information.

   If an employee of the Authority receives a written request to inspect, copy, or receive copies of a public record, the employee should promptly forward the request to the Authority's FOIA Coordinator. A requestor is not required to use the Authority's sample Request Form, or to include the word "FOIA" in the request. Therefore, all written requests to inspect, copy, or receive copies of records should be promptly forwarded to the FOIA Coordinator for review.

5. The FOIA Coordinator shall keep a copy of all written requests for public records received by the Authority on file for a period of at least one year.

6. A person may subscribe to future issuances of public records created, issued or disseminated *on a regular basis*, such as notices or agendas of Council meetings. In all

other respects, if the requested public record does not exist as of the date requested, the Authority has no obligation under the FOIA to create the requested record or to provide a copy if created at a later date. A subscription is valid for up to 6 months and may be renewed by the subscriber.

7. The FOIA Coordinator shall, upon written request, furnish a certified copy of a public record to the requestor.

B. Responses.

1. Unless otherwise agreed to in writing by the person making the request, the Authority must respond to a written request under the FOIA within 5 business days (excluding weekends and legal holidays) after the Authority receives the request by doing one of the following:

   a. Grant the request;

   b. Send a written notice denying the request;

   c. Grant the request in part and issuing a written notice denying the request in part; or

   d. Issuing a notice extending for not more than 10 business days the period during which the Authority will respond to the request. The Authority shall not issue more than 1 notice of extension for a particular request.

2. If a request is denied in whole or in part, the Authority must include in the written notice of denial an explanation of the basis for the denial and, if applicable, a certificate that the public record does not exist under the name given by the requestor or by another name reasonably known to the Authority. A sample Certificate of Non-Existence of Public Record is appended as **Attachment B**.

   a. Exemptions to disclosure are set forth in Section 13 of the FOIA, MCL15.243, which is available on the Michigan Legislature's website at www.legislature.mi.gov.

   b. If a public record or information is separated and exempt from disclosure (redacted), the Authority will describe generally the material exempted unless that description would reveal the contents of the exempt information and thus defeat the purpose of the exemption.

3. The date for responding to a FOIA request depends upon the manner in which the request was delivered. A request sent by mail or delivered by hand is received for purposes of the FOIA on the day it arrives at the Authority. A request sent by e-mail, fax, or other electronic means is received for purposes of the FOIA 1 business day after the date on which it was electronically transmitted. If a request is sent by email and is diverted to the Authority spam or junk mail folder, the request is not received until 1 day after the date it is discovered in the spam or junk mail folder. The FOIA Coordinator shall include in the Authority's records both the time that a written request was delivered to its spam or junk-mail folder and the time that the Authority first became aware of that request. The Authority shall review the FOIA Coordinator's spam or junk mail folder at least once every 30 days.

4. If a request is fully granted, the Authority will provide copies of, or an opportunity to inspect, all the public records that were requested, upon payment of the appropriate fee (if any). No pages will be left out, and nothing will be redacted.

5. The Authority will provide reasonable facilities for a requestor to inspect nonexempt public records. The facilities will be available during the Authority's normal business hours. The FOIA Coordinator will establish rules regulating the manner in which records may be inspected to protect the Authority's records from loss, alteration, mutilation, or destruction, or to prevent undue interference with the Authority's normal operations.

6. The FOIA identifies numerous specific exemptions to disclosure. If a request includes information that is exempt from disclosure, the Authority will provide a written response and list the reason(s) why the record(s) or portions of records will not be disclosed. The Authority will include a link to, or a copy of, these Written Procedures and Guidelines (including the Public Summary and Attachments) with each denial.

7. If a request is partially denied, it means that some records or parts of records will be disclosed, but some records or parts of records will not be disclosed. The Authority will provide copies of, or an opportunity to inspect, the nonexempt records, but exempt information (which may consist of entire documents, pages, or information on a page) may be withheld or redacted. The Authority will include in the written notice of denial-in-part an explanation of the basis for the denial-in-part and, if applicable, a certificate that one or more of the public records does not exist under the name given by the requestor or by another name reasonably known to the Authority. The Authority will include a link to, or copy of, these Written Procedures and Guidelines (including the Public Summary and Attachments) with each denial.

8. The FOIA does not require the Authority to create any records, or to make compilations, summaries, or reports of existing records. If a request seeks records that do not exist, the Authority will certify that no records responsive to the request exist under the name or description provided in the request or another name known to the Authority. (See sample Certificate of Non-Existence of Public Record appended as **Attachment B**).

9. If a request asks for information that is available on the Authority's website, the Authority will notify the requestor in its response where the records may be found. If a requestor seeks paper copies of information available on the website, the Authority may charge the fees noted below and on the detailed fee itemization form, except that there will be no charge for separating exempt from nonexempt material.

10. In lieu of paper copies, the requestor may stipulate that the Authority provide non-exempt public records on non-paper physical media, by electronic mail, or other electronic means. The Authority is not required to produce non-exempt public records on non-paper physical media if the Authority lacks the technological capability necessary to provide the requested records on the particular non-paper physical media stipulated in the particular instance. The Authority is not required to use non-paper physical media *provided by the requestor* and, to safeguard the Authority's information technology infrastructure, shall not do so.

C. Deposit Requirements

1. Where the Authority estimates that the fee authorized under the FOIA and these FOIA Procedures and Guidelines for responding to a request will exceed Fifty Dollars ($50.00), the Authority may require a good-faith deposit from the requestor before providing the requested records. A good-faith deposit shall not exceed one-half (½) of the total estimated fee and shall include a detailed itemization of estimated fee amounts. The FOIA Coordinator shall provide the requestor with a detailed itemization of allowable fees estimated to be incurred by the Authority to process the request. The Authority shall include with its request for good-faith deposit a best efforts estimate of the time frame within which the Authority will provide the requested public records. The timeframe estimate is not binding on the Authority, but the estimate will be made in good faith and the Authority will strive to be reasonably accurate.

2. If a deposit that is required under subsection (8) or (11) of MCL 15.234 is not received by the Authority within 45 days from receipt by the requesting person of the notice that a deposit is required, and if the requesting person has not filed an appeal of the deposit amount pursuant to section 10a, the request shall be considered "Abandoned" by the requesting person and the Authority is no longer required to fulfill the request. Notice of a deposit requirement is considered received 3 days after it is sent, regardless of the means of transmission. Notice of a deposit requirement under subsection (8) or (11) must include notice of the date by which the deposit must be received, which date is 48 days after the date the notice is sent.

3. If a requestor previously requested public records from the Authority, and if the Authority made the requested public records available on a timely basis but was not paid in full the total estimated fee for that previous request, the Authority may, to the extent permitted by the FOIA, require a deposit of up to 100% of the estimated fee for the subsequent request(s).

D. Fees

1. A fee shall not be charged for the cost to search, examine, review, and delete/separate/redact exempt from non-exempt information unless failure to charge a fee would result in unreasonably high costs to the Authority. In determining whether such costs are "unreasonably high," the Authority will consider, on a case-by-case basis, the estimated costs given the volume and complexity of the request relative to the usual or typical costs incurred by the Authority in responding to FOIA requests.

2. Fees are calculated using the detailed fee itemization form appended to these Guidelines and Procedures as **Attachment C**. The Authority charges the following fees:

    a. *Labor costs incurred for searching for, locating, and examining public records.* Labor costs are calculated in 15-minute increments (rounded down) and will not exceed the hourly rate of the lowest-paid employee capable of searching for, locating, and examining the public records. No overtime will be charged unless requested by the requestor, approved by the Authority, and included on the fee itemization form. The hourly rate of the lowest-paid employee capable of searching for, locating, and examining particular records may vary depending upon the nature of the records

sought and the corresponding qualifications or authorizations required to search for, locate, or examine the requested record. All charges will be noted on the fee itemization form.

b. *Labor costs for separating and deleting exempt information from nonexempt information.* Labor costs are calculated in 15-minute increments (rounded down) and will not exceed the hourly rate of the lowest-paid employee capable of separating and deleting material that is exempt from disclosure from information that is non-exempt from disclosure. No overtime will be charged unless requested by the requestor, approved by the Authority, and included on the fee itemization form. The hourly rate of the lowest-paid employee capable of separating and deleting exempt information from non-exempt information may vary depending upon the nature of the records sought and the corresponding qualifications or authorizations required to separate and redact exempt information from non-exempt information. If the Authority FOIA Coordinator determines on a case-by-case basis that no employee of the Authority is capable of separating and deleting exempt from nonexempt material, the Authority may engage a contracted services provider and charge labor costs. Such labor costs shall be calculated in 15-minute increments (rounded down) and the hourly rate shall not exceed 6 times the state minimum wage. All charges will be noted on the fee itemization form.

c. *Costs for non-paper physical media.* A requestor may stipulate that records be produced on non-paper physical media (e.g., on a flash drive or CD). If the Authority has the technological capabilities to comply with the request for production on non-paper physical media, the Authority may charge the actual and most reasonably economical cost of the requested non-paper physical media and the cost of non-paper physical media shall be included on the fee itemization form.

d. *Actual cost of duplication for paper records.* The Authority will charge the actual cost of duplication (not to exceed 10 cents per sheet) for 8-1/2 by 11inch sheets of paper or 8-1/2 by 14-inch sheets of paper. The actual cost of duplication will be charged for non-standard-sized sheets of paper and may exceed 10 cents per sheet. The Authority shall utilize the most economical means available for making copies of public records, including using double-sided printing, if cost saving and available.

e. Actual labor costs for duplication or publication. The Authority's charges for duplication or publication will not exceed the hourly rate of the lowest-paid employee capable of duplicating or publishing the records. The hourly rate of the lowest-paid employee capable of duplicating or publishing records may vary depending on the nature of the records sought. Duplication or publication fees are calculated in 15-minute increments (rounded down). All charges will be noted on the fee itemization form.

f. Postal delivery charges. The Authority may charge the costs of the least expensive form of postal delivery. If a requestor asks for expedited mailing, and if the Authority agrees to provide expedited mailing, the actual costs of the expedited mailing may be charged and must be included on the fee itemization form.

g. Fringe benefits. The Authority may add to the labor charges described above the

actual cost of the public employee's fringe benefits, up to 50% of the labor costs. Fringe benefits must be noted on the fee itemization form.

h. Overtime wages. No overtime will be charged unless requested by the requestor, approved by the Authority, and included on the fee itemization form.

3. Each of the fee components described above must be specifically listed on the fee itemization form. A completed copy of the fee itemization form will be included with the response to the request. A copy of the fee itemization form is appended to these Written Procedures and Guidelines as **Attachment C**.

4. **Fee Reductions.** If the FOIA Coordinator does not respond to a written request within the timeframes required by the FOIA, the Authority will reduce the charges for labor costs otherwise permitted under the FOIA and these Procedure and Guidelines by 5% for each day the Authority exceeds the time permitted for a response to the request, up to a maximum 50% reduction, if either of the following applies:

   - The late response was willful and intentional.

   - The written request included language that conveyed a request for information within the first 250 words of the body of a letter, facsimile, electronic mail, or electronic mail attachment, or specifically included the words, characters, or abbreviations for "freedom of information," "information," "FOIA," "copy," or a recognizable misspelling of such, or appropriate legal code reference for this act, on the front of an envelope, or in the subject line of an electronic mail, letter, or facsimile cover page.

   If a fee reduction is required, the Authority will fully note the fee reduction on the detailed itemization of fees (**Attachment C**).

5. **Payment.** The FOIA Coordinator will require that payment be made in full for the allowable fees before the requested records are made available.

6. **Fee Waivers.** A search for a public record may be conducted, or copies of public records may be furnished, without charge or at a reduced charge if the Authority determines, in its discretion, that a waiver or reduction of the fee is in the public interest because searching for or furnishing copies of the public records can be considered as primarily benefiting the general public.

7. **Discounts**. Under the following circumstances, a public record search shall be made by the Authority and a copy of a non-exempt public record shall be furnished without charge for the first $20.00 of the fee:

   a. If an individual who is entitled to information under the FOIA:

      - submits an affidavit stating that the individual is receiving specific public assistance or is unable to pay the fee because of indigence and stating that the individual is not making the request in conjunction with outside parties in exchange for payment or other remuneration; and

- that individual has not previously received discounted copies of public records from the Authority twice during the same calendar year.

b. If a nonprofit corporation formally designated by the State of Michigan to carry out activities under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000, Public Law 106-402, and the Protection and Advocacy for Individuals with Mental Illness Act, Public Law 99-319, or their successors, submits a request that meets all of the following requirements:

- Is made directly on behalf of the organization or its clients;

- Is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the Mental Health Code, 1974 PA 258, MCL 330.1931; and

- Is accompanied by documentation of its designation by the state, if requested by the Authority.

E. Appeals

A requestor may appeal any denial of records or any fee charged for public records.

1. **Challenge to Record Denial.** If the Authority denies a request for records, the requestor may either:

- Appeal to the Authority Board; or

- Commence an action in the circuit court in Calhoun County within 180 days of the denial.

a. If the requestor appeals to the Authority Board, the appeal must specifically state the word “appeal” and state the reason(s) that the denial should be reversed. The following rules apply to record denial appeals to the governing Board:

i. An appeal is not “received” until the first regularly scheduled Board meeting after the appeal is submitted.

ii. Within 10 business days after receiving the appeal, the Board will do one of the following:

A. Reverse the denial;

B. Issue written notice upholding the denial;

C. Reverse the denial in part and issue written notice upholding the denial, in part; or

D. Issue written notice extending the time for response by not more than10 business days.

iii. If the Authority Board fails to respond in a timely manner to the written appeal or

upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requestor may seek judicial review by commencing a civil action in circuit court.

b. A requestor is not required to submit an appeal to the Authority Board before commencing a civil action in circuit court to challenge a disclosure denial. If a circuit court determines that the requested record is not exempt from disclosure, the court will order the Authority to cease withholding or to produce all or a portion of the public record determined to have been wrongfully withheld. If the court determines that a disclosure denial was arbitrary and capricious, willful and intentional, or made in bad faith, the court will order that the Authority pay a civil fine to the state and punitive damages to the requestor. If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record *prevails* in an action commenced in the circuit court, the court shall also require that the Authority pay the requestor's reasonable attorneys' fees, costs, and disbursements, to the extent required by law and court order. If the requestor or the Authority *prevails in part*, the court may, in its discretion, award the Authority all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements.

2. **Challenge to Fee.** If the Authority requires a fee (defined to include a deposit) that requestor believes exceeds the amount permitted under the FOIA or these publicly available Procedures and Guidelines, the requesting person may, within 45 days after receiving notice of the required fee, commence an action in the circuit court for the county in which the public record or the Authority's office is located.

   a. If a court determines that the fee exceeds the amount permitted under the FOIA or these Procedures and Guidelines, the court will reduce the fee to the permissible amount (if any).

   b. If the requesting person prevails in an action commenced under this section by receiving a reduction of 50% or more of the total fee, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements.

   c. If the court determines that the Authority arbitrarily and capriciously violated FOIA by charging an excessive fee, or acted in bad faith, the court will order that the Authority pay a civil fine to the state and punitive damages to the requestor.

F. Questions

Any questions about these Written Procedures and Guidelines should be directed to the Authority's FOIA Coordinator.

G. Attachments

1. Sample FOIA Request
2. Sample Certificate of Non-Existence of Public Record
3. Standard Form for Detailed Itemization of Fee Amounts

ATTACHMENT A

SAMPLE FOIA REQUEST LETTER
[date]

(name and address)

Re: Freedom of Information Act Request

Dear FOIA Coordinator:

I am writing to request, pursuant to the Michigan Freedom of Information Act, MCL 15.231 *et seq*., *[to inspect] [to copy] [to obtain copies of]* the following public records:

[*INSERT DESCRIPTION OF RECORDS SOUGHT*]

OPTIONAL: Please provide a copy of the requested public records on [*INSERT DESCRIPTION OF DESIRED NON-PAPER PHYSICAL MEDIUM, SUCH AS CD, FLASH DRIVE*].

OPTIONAL: Please waive or reduce the fee to search for or furnish copies of the requested public records on grounds that a waiver or reduction of the fee is in the public interest because searching for or furnishing copies of the public records can be considered as primarily benefiting the general public.

OPTIONAL: Please furnished the requested records without charge for the first $20.00 of the fee because (A) I am receiving public assistance [*INSERT SPECIFIC DESCRIPTION*] or am unable to pay the fee because of indigence; (B) I am not making this request in conjunction with outside parties in exchange for payment or other remuneration; and (C) I have not previously received discounted copies of public records from the [*PUBLIC BODY*] twice during this same calendar year.

OPTIONAL: Please furnished the requested records without charge for the first $20.00 of the fee because (A) this request is made directly on behalf of a nonprofit corporation formally designated by the State of Michigan to carry out activities under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000, Public Law 106-402, and the Protection and Advocacy for Individuals with Mental Illness Act, Public Law 99-319, or their successors, or on behalf of its clients; (B) this request is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the Mental Health Code, 1974 PA 258, MCL 330.1931; and(C) this request is accompanied by documentation of designation by the state.

OPTIONAL: I am writing to request, pursuant to the Michigan Freedom of Information Act, MCL 15.231 *et seq*. to subscribe for up to six months to the following future issuances of public records created, issued, or disseminated by [PUBLIC BODY] *on a regular basis:* [INSERT SPECIFIC DESCRIPTION].
Please contact me if you have any questions.

Sincerely,
[REQUESTOR NAME]
[REQUESTOR ADDRESS] [REQUESTOR EMAIL] [REQUESTOR PHONE NUMBER]

Attached Transportation Authority of Calhoun County FOIA Request for Public Records form

ATTACHMENT B

SAMPLE CERTIFICATE OF NON-EXISTENCE OF PUBLIC RECORD
[date]

[REQUESTOR'S NAME]
REQUESTOR'S
ADDRESS]

Re: Freedom of Information Act Request Dated _____, 20_____,

Dear Mr./Ms. _____:

The [NAME OF PUBLIC BODY] is in receipt of your letter dated _____, 20_, regarding a request under the Michigan Freedom of Information Act ("FOIA"). Your letter was received on [INSERT STATUTORY RECEIPT DATE]. You requested [INSERT DESCRIPTION OF RECORDS SOUGHT].

I hereby certify, pursuant to Section 5(4)(b) of the FOIA, that your FOIA request is denied because, to the best of my knowledge, information and belief, no public records exist as of [INSERT STATUTORY RECEIPT DATE], under the name(s) set forth in your request as detailed below, nor under another name reasonably known to the Authority. MCL 15.235(4)(b).

RIGHT TO APPEAL DISCLOSURE DENIAL AND RECOVER ATTORNEYS FEES AND COSTS

If a public body makes a final determination to deny all or a portion of a FOIA request, the requesting person may do one of the following at his or her option:

(1) Submit to the "head of the public body" (the Governing Board) a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the disclosure denial; or

(2) Commence an action in the circuit court to compel the public body's disclosure of the public records.

If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in an action commenced under section 10 of the FOIA, the court shall award reasonable attorneys' fees, costs, and disbursements. If the person or public body prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages that kept or maintained the public record as part of its public function.

If the circuit court determines in an action commenced under section 10 of the FOIA that the Authority arbitrarily and capriciously violated the FOIA by refusal or delay in disclosing or providing copies of a public record, or that the Authority willfully and intentionally failed to comply with the FOIA or otherwise acted in bad faith, the court shall award, in addition to any actual or compensatory damages, punitive damages as prescribed in the FOIA to the person seeking the right to inspect or receive a copy of a public record. The damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

A full explanation of your right to seek either appeal or judicial review is set forth in Section 10 of the FOIA, MCL 15.240.

A copy of the Authority's FOIA Procedures and Guidelines is available on the Authority's website at ridecalhoun.org.

By: _____

ATTACHMENT C

FREEDOM OF INFORMATION ACT DETAILED ITEMIZATION OF FEES

Requestor's name and address:	Hand-Delivered U.S. Mail E-mail Fax Other

FEE CALCULATION	AMOUNT
Labor costs* to search, locate, and examine: Hours x $_____(hourly wage) x __% (multiplier for fringe benefits, not to exceed 50% or actual cost of fringe benefits)	$
Labor costs* for review and separation of exempt from non-exempt material: __Hours x $_____(hourly wage) x __% (multiplier for fringe benefits, not to exceed 50% or actual cost of fringe benefits)	$
Labor costs* to duplicate or publish: Hours x $_____(hourly wage) x __% (multiplier for fringe benefits, not to exceed 50% or actual cost of fringe benefits)	$
Duplication and publication: Describe (copying, scanning, etc.) $ _(cost per page) x _____ number of pages	$
Non-paper physical media: Describe (e.g. CD's, DVD's, flash drive, etc.) and list actual costs.	$
Mailing: Describe and list actual costs.	$
Less waiver for indigent persons ($20.00)**	$
Less reduction for untimely response: $ subtotal x 5% reduction per day x days	$
If the total fee is more than $50.00, you will be asked to pay a deposit of one-half of the amount of the total fee. ***The total fee and deposit are estimates****, and your final costs may vary from these amounts.* ***	Deposit: $
Part or all of the documents requested are available online at: If you prefer to have copies of these documents sent to you, please forward payment to the Authority for processing.	$
Balance to be paid: *	$

Make Check/Money Order payable and mail to:	

*Labor costs will be calculated using the lowest paid Authority employee capable of each task.

** You must submit an affidavit of indigence to qualify for this fee waiver.

***PER MCL 15.234(14), if the good-faith deposit is not received by _____(48 days after the notice is sent) the request will be considered "ABANDONED".

****PER MCL 15.234(8), It is estimated to take _____from the receipt of deposit to process the request.